

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MASSACHUSETTS**

NEW YORK STATE ELECTRIC &  
GAS CORPORATION,  
Plaintiff

v.

**FIRST ENERGY CORPORATION,  
Defendant**

**AFFIDAVIT OF MOVANT'S ATTORNEY**

Now comes the undersigned and avers under oath on his personal knowledge that:

1. I am a partner in the law firm of Kerstein, Coren & Lichtenstein and Robert Rosenblum, Esq. is Of Counsel to the firm. META Environmental, Inc., the movant, is a client of Attorney Rosenblum.

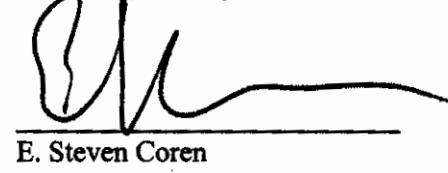
2. Upon returning to his office the employee responsible for dealing with subpoenas telephoned Attorney Rosenblum upon discovering the subpoena in this case and left a message. Determining that immediate action was necessary the matter was referred to me and I received a facsimile transmission of the subpoena and document request on Friday, August 5, 2005. On August 5, 2005 I telephoned the defense attorney who issued the subpoena, Paul G. Ferrara, Costello, Cooney & Fearon, PLLC, 205 South Salina Street, Syracuse, NY 13202 and explained the situation to his secretary. I was told the attorney was out for the rest of the day and that he would contact me Monday, August 8, 2005.

3. I did not receive a return telephone call and on August 8, 2005 sent by facsimile a letter to the attorney explaining my objections and asking to agree on time and costs. I have not received any response.

4. Based on information related to me by my client, I have reason to believe that some portion of the requested documents are subject to the confidentiality provision of the agreement between EPRI and META. Upon receiving a copy of the pertinent part of the agreement, I notified my client of its obligation to notify EPRI of any subpoena requesting documents that may be confidential to EPRI and in which EPRI has a proprietary interest. My client then notified EPRI pursuant to the agreement.

5. I have rendered reasonable and necessary legal services to META resulting from the subpoena and I anticipate that I shall need to render further legal services pending this Court's decision on this motion. I have attached hereto my statement of time and charges incurred to date.

Signed under the pains and penalties of perjury this 11<sup>th</sup> day of August, 2005.



E. Steven Coren